

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

15cr632 (JGK)

JOSE HEBERTO ALVAREZ DENIS,

ORDER

Defendant.

JOHN G. KOELTL, District Judge:

The Court has received the attached letter from the defendant requesting to stay proceedings with respect to his motion for compassionate release to allow the defendant to exhaust his remedies. Under 18 U.S.C. § 3582(c)(1)(A), a defendant may bring a motion for compassionate release only after he has exhausted his administrative rights to appeal the failure of the Bureau of Prisons to bring a motion on the defendant's behalf or after 30 days have elapsed since the warden of the Bureau of Prisons facility at which the defendant is detained received the defendant's request, whichever is earlier.

The defendant reports that he made such a request on June 22, 2020. Therefore, proceedings with respect to the motion for compassionate release are stayed until July 22, 2020. The

defendant may reply to the Government's opposition by July 31, 2020. Chambers will mail a copy of this order to the defendant.

SO ORDERED.

**Dated: New York, New York
July 2, 2020**

/s/ John G. Koeltl
John G. Koeltl
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT NEW YORK

United States of America
(Respondent)

v.

Case No: 15 Cr. 00632 (JGK)
(Hon. Judge John G. Koeltl)

Jose Heberto Alvarez - Denis

MOTION FOR STAY OF
§ 3582 PROCEEDINGS

COMES NOW Petitioner Jose Heberto Alvarez - Denis, pro se, and submits this motion for a stay of his § 3582 Compassionate Release proceedings (or other action as this Court sees fit) due to the following reasons:

Upon his review of the Government's Letter Brief in Opposition to his motion for Compassionate Release, Petitioner further investigated the Government's claim that he failed to meet the basic statutory exhaustion requirements. As a lay, pro se petitioner who speaks no English, Mr. Alvarez - Denis relies on other inmates for translation and understanding of procedural rules and filings. As such, Petitioner was unaware that his previous request to the warden of his facility (asking for CARES Act relief) was statutorily different from his current request for Compassionate Release before the Court, thus failing to meet said requirements.

To avoid denial/dismissal on these grounds, Petitioner concedes this point as argued in the Government's Brief; and on 6/22/20 Petitioner filed a proper Compassionate Release petition with the

Warden of his facility. Petitioner now awaits a response, or lapse of 30 days to meet his filing and exhaustion requirement:

"... requires the defendant either administrative remedies or simply to wait 30 days after serving his petition on the warden of his facility before filing a motion in court."

(US v. Haney, No. 4:12-CR-4013, Doc No. 2337, at 5-6)

(N.D. FLA Apr. 27, 2020)

PRAYER

Petitioner, Jose Heberto Alvarez-Denis humbly requests a stay of proceedings during this process, unless this Honorable Court finds reason to waive the exhaustion requirement; or whatever action the Court sees fit as Petitioner is eager to present his counter-arguments to the Government's opposition (sent separate from this motion).

Respectfully Submitted,

6/22/2020

Date

X ALVAREZ, Jose H.D

Jose Heberto Alvarez-Denis

LSCI Allenwood

P.O. Box 1000

White Deer, PA 17887

AFFIDAVIT

I hereby certify that the foregoing facts are true and correct to the best of my knowledge and belief under penalty of perjury per 28 USC § 1746.

ALVAREZ Jose H. D

Jose Heberto Alvarez-Denis

CERTIFICATE OF SERVICE

I, Jose Heberto Alvarez-Denis hereby certify that a true and correct copy of the foregoing Motion for Stay was mailed on this 6/22/2020 day of June, 2020 by First Class US mail via institutional mail at LSCI Allenwood at White Deer, PA, prepaid to:

Office of the US Attorney
Geoffrey S. Berman, AVSA/
Brendan Qurgley, AVSA

ALVAREZ Jose H. D

Jose Heberto Alvarez-Denis

Alvarez-Denis / # 62211-054
Allenwood
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PO Box 1000
White Deer, PA 17887

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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U.S. District Court
Southern Dist. of NY
Patrick Moynihan Justice Ctr.
500 Pearl street
New York, NY 10007

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ATTN: Judge John G. Koeltl
U.S. District Court
Southern District of New York
Patrick Moynihan Justice Center
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